



**Winston H. Hickox**  
Secretary for  
Environmental  
Protection

# California Regional Water Quality Control Board

## Los Angeles Region

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### Los Angeles Regional Water Quality Control Board

#### Minutes of January 30, 2003 Regular Board Meeting held at Metropolitan Water District of Southern California, 700 North Alameda Street, Los Angeles, California

#### INTRODUCTION

The meeting was called to order by Chairperson Diamond at 9:10am.

#### Board Members Present

Julie Buckner-Levy, Susan Cloke, Francine Diamond, Christopher Pak, Bradley Mindlin,  
and H. David Nahai

#### Board Members Absent

R. Keith McDonald, Timothy Shaheen

#### Staff Present

Dennis Dickerson, Deborah Smith, David Bacharowski, Ronji Harris, Robert Sams, Jack Price,  
Steve Cain, Jenny Newman, Jonathon Bishop, Blythe Ponek-Bacharowski, Art Heath, Paula  
Rasmussen, Wendy Phillips, David Hung, Xavier Swamikannu, Dixon Oriola, Dan Radulescu,  
Mazhar Ali, Rosario Aston, Namiraj Jain, Michael Lyons, Gary Schultz, Renee DeShazo, Don  
Tsai, Steve Berger

#### Others Present

Sharon Green LA County Sanitation Districts  
Bill DePoto, LA County Department of Public Works  
Robert Zmuda, Port of Los Angeles  
George Minter, Greer Daily Minter  
Shahrouzeh Saneie, City of Los Angeles  
Gus Dembegiotes, City of Los Angeles, Bureau of  
Sanitation, Regulatory Affairs  
Bryan P. Heller, City of El Monte Water  
Hazel Scotto, LWV  
Traci Minamide, City of Los Angeles  
Henry Lo, rep for Senator Gloria Romero

David Lennon, Abtech  
Mark Gold, Heal the Bay  
S. Halvax, SWM  
Ray Tahir, City of Whittier/consultant  
Leslie Mintz, Heal the Bay  
Clayton Yoshida, City of Los Angeles,  
Regulatory Affairs  
Daniel Ballin, City of El Monte  
Ed Schroder, Tex Environmental  
Vic Peterson, City of Malibu  
Elizabeth Crawford, rep for Ventura  
County Supervisor Linda Parks

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Craig Perkins, City of Santa Monica  
Barbar Michaelson, ExxonMobil  
Guillermo Gonzalez, Deputy State Director  
representing Senator Diane Feinstein  
Nicole Granquist, City of Los Angeles

Robert Wallis, ExxonMobil  
Rod Spackman, Chevron Texaco Corp.  
Susan Damron, Los Angeles  
Department of Water and Power  
Greg Kozak, Malibu Cross Creek, Ltd.

### **Pledge of Allegiance**

1. Roll Call

*A roll call was taken.*

2. Order of Agenda.

*The Executive Officer made the following changes to the agenda:*

- *Art Bagget, Chairperson, State Water Resources Control Board, to speak after the election of the new Board chair*
- *Added item 6A - Staff Recognition*
- *Item 9.1 to be continued*
- *Items 11 and 12 removed from the consent calendar*

*There was a motion to approve the changes to the agenda.*

MOTION: By Vice Chair Cloke, seconded by Board Member Mindlin, and approved on a voice vote. No votes in opposition.

*The Board voted to delay the adoption of the minutes until after lunch.*

MOTION: By Chairperson Diamond, seconded by Vice Chair Cloke, and approved on a voice vote. No votes in opposition.

4. Adoption of Board Meeting Schedule for 2003

*The Board adopted the regular meeting schedule for 2003.*

MOTION: By Chairperson Diamond, seconded by Vice Chair Cloke, and approved on a voice vote. No votes in opposition.

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5. Election of Officers

*Board member Nahai nominated Vice Chair Cloke as the new Chairperson and Chairperson Diamond as the new Vice Chair. Board member Nahai added that Chairperson Diamond had raised the bar for future chairs during her term.*

**MOTION:** By Board member Nahai, seconded by Board member Mindlin, and approved on a voice vote. No votes in opposition.

*Art Bagget, Chairperson of the State Water Resources Control Board, spoke about various issues facing the State Board. He spoke about the current budget situation, water rights issues, and water quality issues including the upcoming Phase II stormwater permits, agricultural waivers, and 303(d) list approval.*

6. Board Member Communications and Ex Parte Disclosure

*Board member Nahai stated that he attended a function sponsored by the California League of Conservation Voters and had a brief conversation with a Shell employee about MTBE contamination in Santa Monica.*

*Vice Chair Diamond stated that she and Chairperson Cloke attended a meeting in Malibu where they received an overview of water quality issues affecting the City.*

6a. Staff Recognition

*Dennis Dickerson, Executive Officer, acknowledged Xavier Swamikannu for his exceptional work at the Board and pointed out his recent recognition as one of six American environmental leaders of East Indian ancestry in India Currents - an Indian American Journal.*

*Dennis Dickerson then introduced two international interns from the People's Republic of China, Chaosen Peter Feng and Wenhui Gabriel Gao.*

7. Public Forum

*Bill Depoto, Los Angeles County Department of Public Works, Watershed Management Division, spoke to the Board about the importance of BMPs for the implementation of the municipal stormwater permit. He explained the purpose of the Los Angeles BMP task force and reviewed their new web page.*

*Craig Perkins, City of Santa Monica, asked for the Board's help on the issue of MTBE contamination in the Charnock sub-basin. He spoke against a recent action by EPA that suggested a hot spot approach to cleanup. He asked the Board to send a letter in support of the City and to work with the City on a long-term groundwater cleanup approach.*

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*Rod Spackman, Chevron Texaco Corporation, supported the City's objective of long-term cleanup and spoke about the importance of the pending settlement between the potentially responsible parties and the City.*

*Robert Wallis, attorney for ExxonMobil, gave a perspective on MTBE litigation in the United States. He stated that the pending agreement was a continuation of the original contract, before Shell withdrew and caused litigation. He stated that the pending agreement would allow appropriate allocation of cleanup costs.*

*Mark Gold, Heal the Bay, told the Board that if the hot spot order went forward, it would result in 250 million gallons a day of wasted groundwater, which would be pumped and discharged to Ballona Creek. He stated that the water would add to the high toxicity levels already present in the creek and the Bay.*

*Board Member Cloke asked staff to address the situation and bring a formal agenda item before the Board.*

8. Uncontested Items

*Item 9.4 was removed from uncontested items list. There was a motion to approve the following uncontested items: 9.2-9.3, 9.5-9.7, 10.1-10.5.*

**MOTION:** By Vice Chair Diamond, seconded by Chairperson Cloke, and approved on a voice vote. No votes in opposition.

9.4 Los Angeles Department of Water and Power (Harbor Generating Station, Fuel Storage North Skim Pond Tank Farm)

*Susan Damron, Los Angeles Department of Water and Power, spoke about the remaining unresolved issue between DWP and staff regarding TSS limits. She stated that staff based the limits on existing tank farms in the refining industry, which were not reflective of the types of discharges from DWP. She stated she was not clear if the limits were technology or water-based and that no data was available from staff showing how the limit was developed.*

*Blythe Ponck-Bacharowski, Chief Watershed Regulatory Section replied that staff looked at seven other similar facilities when developing the permit limits. She pointed out that the Board adopted the Shore Terminal permit, which had similar limits, on the consent calendar that morning. She added that treatment for TSS was not difficult and that the limits would not result in an increase in turbidity in the receiving waters.*

*There was a motion to adopt the staff recommendation.*

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**MOTION:** By Board Member Nahai, seconded by Board Member Mindlin, and approved on a voice vote. No votes in opposition.

- 11.1& Waste Discharge Requirements and Times Schedule Orders for
- 11.2 Malibu Country Marts I and II

*Paula Rasmussen, Chief, Enforcement and Groundwater Permitting unit, gave the staff presentation. Item 11 included a new WDR and TSO for Malibu Country Mart I, while Item 12 was a renewal of a WDR and a new TSO for Malibu Country Mart II. She presented the background, including the WDR for Malibu Country Mart III that was brought before the Board at the December 2002 meeting. She reviewed the hydrology of the region, the beneficial uses of the groundwater and surface water, the requirements for the proposed permits, including operation and maintenance requirements, effluent limits, and the monitoring and reporting program.*

*Mark Gold, Heal the Bay, spoke about broader issues concerning the lack of centralized treatment in Malibu. He suggested that the Board discuss a comprehensive wastewater management program with the City of Malibu.*

*Vice Chair Diamond stated that she understood that Malibu had passed an ordinance for the treatment of new and repaired systems and asked if she should be concerned that the ordinance did not apply to old systems.*

*Mark Gold replied that simply focusing on new and repaired systems ignored the problems with existing systems. He stated that every system in Malibu should have an operating permit. He recommended that the City have a publicly funded program for septic system management.*

*Chairperson Cloke asked Greg Kozak, representing Malibu Country Mart, for his thoughts on the optimal way to meet the permit requirements.*

*Mr. Kozak replied that he felt a centralized treatment plant would work best.*

*Vic Peterson, City of Malibu, spoke about the newly adopted ordinance. He stated that the new code required operating permits for all occupancies, including a timeline for the inclusion of existing systems. He added that Malibu Country Marts I and II could have a centralized system as long as it complied with City Code.*

*The Board discussed how the Malibu ordinance applied to single family septic systems and then moved to adopt staff's recommendation for 11.1 and 11.2.*

**MOTION:** By Board Member Pak, seconded by Board Member Nahai, and approved on a voice vote. No votes in opposition.

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15. Perchlorate Update

*Dixon Oriola, Chief, Well Investigation Program, first gave the Board a brief overview of the recent Chromium VI study. Then he discussed the investigation of perchlorate sites in the Region in order to understand their distribution. He discussed the uses of perchlorate, its behavior in the environment, its threat to public health, and its impact on drinking water supplies. He discussed its detection near the San Bernardino border, Santa Susana, Whittaker Bermite, Pasadena, San Gabriel, and to a lesser extent in the Central Basin. He discussed possible sources, including possible sources of Region 8 pollution migrating to Region 4. He then talked about the economics of remediation and staff's work on the issue since 1997.*

*Guillermo Gonzalez, Deputy State Director for Senator Diane Feinstein, told the Board that they were working with State and local agencies to address the problem and were looking at legislative options for expediting cleanup.*

*Board member Nahai asked what was happening with respect to ongoing leaching of perchlorate to groundwater.*

*Dennis Dickerson replied that chemicals like perchlorate are the result of a legacy of pollution, and that there are probably no current sources.*

*Chairperson Cloke asked what the size of the problem was and how long it would take to clean it up.*

*Mr. Dickerson replied that there were many potential historical sources and that staff was not yet aware of how pervasive the contamination was.*

*Chairperson Cloke asked if it was possible, that perchlorate was being delivered in potable water.*

*Mr. Dickerson replied that individual water purveyors are required to tell their customers the content of their water.*

*Chairperson Cloke directed staff to include regular updates on perchlorate in the Executive Officer's report.*

8. Approval of Minutes

*Board member Mindlin made corrections to pages 3-9 and 3-10, before moving to adopt the minutes.*

**MOTION:** By Board Member Mindlin, seconded by Board Member Buckner-Levy, and approved on a voice vote. No votes in opposition.

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13. Compliance Schedule Basin Plan Amendment

*Jon Bishop, Chief, Regional Programs Section gave the introduction and framed the issue for the Board.*

*Renee DeShazo, Standards and TMDL unit, gave the staff presentation. She reviewed the background and the motivation for allowing compliance schedules in NPDES permits, which was to provide the Board with an additional regulatory tool. She discussed the provisions of the amendment, including the maximum allowable length of the compliance schedule. She stated that the amendment applied to new, revised or newly interpreted water quality standards adopted after the effective date of the amendment. She then reviewed comments received and went over the change sheet.*

*Nicole Granquist, representing the City of Los Angeles, discussed the practical issues associated with the proposed amendment. She suggested that language be added to include newly applied water quality standards.*

*Gus Dembegiotes, City of Los Angeles, Bureau of Sanitation, supported the Board's recognition of compliance schedules as a useful tool but had three comments. He objected to the five-year limit to compliance schedules. He felt that the policy should apply to new permit requirements based on existing standards. Finally, he supported the conversion of existing TSOs to compliance schedules, which was an alternative not recommended by staff.*

*Sharon Green, Sanitation Districts of Los Angeles County, supported the adoption of the proposed amendment. However, she supported the comments made by the City of Los Angeles and agreed with them that the Board should allow compliance schedules greater than five years. She asked that the definition of new water quality standard be extended to include new interpretation of numeric as well as narrative standards.*

*Leslie Mintz, Heal the Bay, asked the Board not to adopt the amendment, citing the reasons she explained in her written comment letter.*

Board Questions

*Vice Chair Diamond asked staff to respond to the request made to include new permit requirements based on existing standards.*

*Jon Bishop replied that a compliance schedule is not an appropriate mechanism to address a change in conditions, which is the reason a permit would contain a new requirement based on an existing standard.*

*Michael Lauffer, staff counsel, added that a change in conditions could occur through no fault of the discharger, such as in the case of a POTW with a variety*

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*of influent sources. However, he stated that for an industrial facility, a change in conditions could be caused by a shift in chemical constituents, which would be the fault of the facility, and not an appropriate situation to allow a compliance schedule.*

*The Board and staff then discussed what would happen if a compliance schedule term spanned two permit cycles.*

*Vice Chair Diamond asked if there would be any hierarchy for the use of a compliance schedule versus a TSO.*

*Michael Lauffer stated that the choice would remain at the discretion of the Board.*

*Chairperson Cloke asked staff to explain the value of allowing compliance schedules in NPDES permits.*

*Michael Lauffer replied that a compliance schedule is a permit writing tool, while a TSO is an enforcement action and only recognized under state law. Therefore, a discharger could be subject to a third party lawsuit even if they were complying with a TSO. He pointed out the consistency that a compliance schedule would allow by eliminating the need for both a permit and a TSO.*

*Chairperson Cloke and Mr. Lauffer discussed the pros and cons of allowing a compliance schedule policy.*

*Board Member Mindlin stated that limiting compliance schedules to five years would tie the hands of future Boards members.*

*The Board discussed the appropriateness of limits on compliance schedules and the necessity of including language specifying the length of schedules in the Basin Plan.*

*Board Member Nahai moved to adopt the staff recommendation, including the changes in the change sheet. He added language to the amendment clarifying the length of allowable compliance schedules.*

*Board Member Mindlin made a substitute motion that would allow compliance schedules longer than five years. There was no second of this motion so the Board voted on the first motion.*

**MOTION:** By Board Member Nahai, seconded by Board Member Pak, and approved on a voice vote. No votes in opposition.

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14. Review of Budget Data Submitted by Municipal Stormwater Permittees

*Xavier Swamikannu, Chief, Municipal Stormwater unit, gave the staff presentation. He discussed the budget data analysis, which was based on permittees' self reported estimates. He then reviewed the reporting requirements and program components for the 2001 LA MS4 permit. Based on their analysis, staff concluded that the average per household cost to implement programs in the 2001 MS4 permit ranged from \$12-\$18. He added that the increase in cost from the 1996 permit to the 2001 permit was no more than 25%. Finally, he recommended the formation of a workgroup to develop generally accepted budget-reporting guidelines.*

*Ed Schroder, representing the City of Bellflower, stated that staff's cost estimation excluded water quality compliance costs. He discussed the recent CPR/USC study that estimated costs much higher than those estimated by staff. He added that the costs of meeting receiving water requirements far exceeded the cost of meeting the MS4 permit requirements.*

*Ray Tahir, representing the City of Whittier, objected to staff's proposed requirement to audit cities suspected of inflating compliance costs. He recommended that the Board develop clearly defined cost reporting guidelines. He added that the City of Whittier was not concerned with the costs of compliance with the permit requirements but with the costs associated with implementing upcoming TMDLs through the permit.*

*Leslie Mintz, Heal the Bay, stated that they were working with Senator Sheila Kuehl on a Bill to create a standard for monitoring and reporting requirements that would help with consistent cost reporting.*

Adjournment of Current Meeting

The meeting adjourned at 4:20 pm. The next regular meeting is scheduled for March 13, 2003, at the Metropolitan Water District of Southern California, 700 North Alameda Street at 9:00 a.m.

Minutes adopted at the \_\_\_\_\_ Regular Board meeting submitted/amended.

Written and submitted by: \_\_\_\_\_.

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